

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 12**

KEOLIS TRANSIT AMERICA, INC.

and

Case 12-CA-275055

INTERNATIONAL BROTHERHOOD OF TEAMSTERS,
LOCAL UNION NO. 769

COMPLAINT AND NOTICE OF HEARING

This Complaint and Notice of Hearing is based on a charge filed by International Brotherhood of Teamsters, Local Union No. 769 (the Union). It is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that Keolis Transit America, Inc. (Respondent), has violated the Act as described below.

1.

The charge in this proceeding was filed by the Union on April 1, 2021, and a copy was served on Respondent by U.S. mail on April 2, 2021.

2.

(a) At all material times, Respondent, a Delaware corporation with its principal office and place of business located in Boston, Massachusetts, and a place of business located at 1500 SW 40th Street, Fort Lauderdale, Florida, has been engaged in providing transportation services.

(b) During the past 12 months, Respondent, in conducting its operations described above in paragraph 2(a), derived gross revenues in excess of \$250,000.

(c) During the past 12 months, Respondent, in conducting its business operations described above in paragraph 2(a), purchased and received at its facilities in Fort Lauderdale, Florida, goods valued in excess of \$50,000 directly from points outside the State of Florida.

(d) At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.


3.

At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

4.

At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

(b) (6), (b) (7)(C)



5.

(a) On or about (b) (6), (b) (7)(C) 2021, Respondent discharged its employee (b) (6), (b) (7)(C)

(b) Respondent engaged in the conduct described above in paragraph 5(a) because (b) (6), (b) (7)(C) joined and supported the Union and engaged in concerted activities, and to discourage employees from engaging in these activities.

6.

By the conduct described above in paragraphs 5(a) and 5(b), Respondent has been discriminating in regard to hire or tenure or terms or conditions of employment of its employees, thereby discouraging membership in a labor organization, in violation of Section 8(a)(1) and (3) of the Act.

7.

The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

WHEREFORE, to fully remedy the unfair labor practices set forth above, the General Counsel seeks an order requiring that Respondent make whole (b) (6), (b) (7)(C) including but not limited to payment for consequential economic harm (b) (6), (b) (7)(C) incurred as a result of Respondent's unlawful conduct. The General Counsel further seeks an order requiring that Respondent provide its managers and supervisors employed at its Fort Lauderdale, Florida facilities with copies of any Decision issued by an administrative law judge and/or Decision and Order issued by the Board finding a violation of the Act in this case, certify in writing that they have reviewed and understand the contents thereof, and submit copies of the certifications to the Regional Director for Region 12. The General Counsel also requests that Respondent be ordered to send a letter on its letterhead signed by (b) (6), (b) (7)(C) to (b) (6), (b) (7)(C) informing (b) (6), (b) (7)(C) that all references to (b) (6), (b) (7)(C) discharge on (b) (6), (b) (7)(C) 2021, have been removed from Respondent's files, that said action will not be used against (b) (6), (b) (7)(C) in any way, and that Respondent apologizes to (b) (6), (b) (7)(C) for any hardship or distress caused by the discharge, and assures (b) (6), (b) (7)(C) that Respondent will respect the rights of employees to engage in union activities and other protected concerted activities.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The filed answer must be **received by this office on or before 11:59 p.m. on November 22, 2021.** Respondent also must serve a copy of the answer on each of the other parties.

Pursuant to Section 102.5(c) of the Board's Rules and Regulations, the answer must be filed electronically through the Agency's website unless Respondent is unable to file electronically, and accompanies the filing of its answer in paper format with a statement explaining why it does not have access to the means for filing electronically or why filing electronically would impose an undue burden. To file electronically, go to www.nlr.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required

signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on **February 1, 2022, at 9:30 a.m., by videoconference using the Zoom for Government platform**, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated: November 8, 2021.



David Cohen, Regional Director
National Labor Relations Board, Region 12
201 East Kennedy Boulevard, Suite 530
Tampa, Florida 33602-5824

Attachments

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Case 12-CA-275055

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements ***will not be granted*** unless good and sufficient grounds are shown ***and*** the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds must be set forth in ***detail***;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

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Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: www.nlrb.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf.

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at www.nlrb.gov, click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement. The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.
- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered in evidence. If a copy of any exhibit is not available when the original is received, it will be the responsibility

of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

- **Transcripts:** An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.
- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.
- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
SETTLEMENT AGREEMENT

IN THE MATTER OF

Keolis Transit America, Inc.

Case 12-CA-275055

Subject to the approval of the Regional Director for the National Labor Relations Board, the Charged Party and the Charging Party **HEREBY AGREE TO SETTLE THE ABOVE MATTER AS FOLLOWS:**

POSTING OF NOTICE — After the Regional Director has approved this Agreement, the Regional Office will send copies of the approved Notice to the Charged Party in English and in additional languages if the Regional Director decides that it is appropriate to do so. A responsible official of the Charged Party will then sign and date those Notices and immediately post them by the time clock at the Employer's dispatch office and at all other places where notices to employees, including but not limited to bargaining unit employees represented by International Brotherhood of Teamsters, Local 769, are customarily posted at the Charged Party's facilities at Fort Lauderdale-Hollywood International Airport, Fort Lauderdale, Florida. The Charged Party will keep all Notices posted for 60 consecutive days after the initial posting and each week during the 60-day posting period the Charged Party will e-file with the Regional Director of Region 12 at www.nlr.gov current dated photographs of all Notices posted. Furthermore, the Charged Party agrees to grant agents of the National Labor Relations Board access to its premises for the purposes of confirming that the Notices are posted pursuant to the terms of this Agreement.

E-MAILING & TEXTING NOTICE — The Charged Party will email and text to all of its employees employed at its facility at Fort Lauderdale-Hollywood International Airport, Fort Lauderdale, Florida, a copy of the signed Notice in English and in additional languages if the Regional Director decides that it is appropriate. The e-mail and the text transmitted with the Notice attached will state only: "We are distributing the attached Notice to Employees to you pursuant to a Settlement Agreement approved by the Regional Director of Region 12 of the National Labor Relations Board in Case 12-CA-275055." To document its compliance with this requirement, the Charged Party will e-file with Region 12 via the Agency's e-filing portal at www.nlr.gov, a copy of the e-mail with all the recipients' e-mail addresses visible, and a copy of the text message with all of the recipients' telephone numbers visible, along with a copies of the emailed and texted Notice, and a completed Certification of Posting form.

COMPLIANCE WITH NOTICE — The Charged Party will comply with all the terms and provisions of said Notice.

SCOPE OF THE AGREEMENT — This Agreement settles only the allegations in the above-captioned case(s), including all allegations covered by the attached Notice to Employees made part of this agreement, and does not settle any other case(s) or matters. It does not prevent persons from filing charges, the General Counsel from prosecuting complaints, or the Board and the courts from finding violations with respect to matters that happened before this Agreement was approved regardless of whether General Counsel knew of those matters or could have easily found them out. The General Counsel reserves the right to use the evidence obtained in the investigation and prosecution of the above-captioned case(s) for any relevant purpose in the litigation of this or any other case(s), and a judge, the Board and the courts may make findings of fact and/or conclusions of law with respect to said evidence.

NON – ADMISSIONS – By entering into this Agreement, the Charged Party does not admit that it has violated the National Labor Relations Act.

PARTIES TO THE AGREEMENT — If the Charging Party fails or refuses to become a party to this Agreement and the Regional Director determines that it will promote the policies of the National Labor Relations Act, the Regional Director may approve the settlement agreement and decline to issue or reissue a Complaint in this matter. If that occurs, this Agreement shall be between the Charged Party and the undersigned Regional Director. In that case, a Charging Party may request review of the decision to approve the Agreement. If the General Counsel does not sustain the Regional Director's approval, this Agreement shall be null and void.

WAGES — Within 14 days from approval of this agreement, the Charged Party will provide the Regional Director for the employee named below with 1) payment making her whole in the amounts opposite her name; and 2) a Backpay report allocating the payment(s) to the appropriate calendar year(s). The Charged Party will compensate the named employee for the adverse tax consequences, if any, of receiving a lump-sum backpay award. Within 21 days from approval of this agreement, the Charged Party will provide the Regional Director with a Backpay report allocating the backpay payment to the appropriate calendar year(s) and a copy of the IRS form W-2 for wages earned in the current calendar year by the named employee. The Charged Party will make appropriate withholdings from backpay and additional wages for the named employee. No withholdings shall made from the interest amount.

Name	Backpay	Interest	Additional Wages	Total
(b) (6), (b) (7)(C)	\$14,056.00	\$240.00	\$1,500.00	\$15,796.00

AUTHORIZATION TO PROVIDE COMPLIANCE INFORMATION AND NOTICES DIRECTLY TO CHARGED PARTY — Counsel for the Charged Party authorizes the Regional Office to forward the cover letter describing the general expectations and instructions to achieve compliance, a conformed settlement, original notices and a certification of posting directly to the Charged Party. If such authorization is granted, Counsel will be simultaneously served with a courtesy copy of these documents.

Yes No
Initials Initials

PERFORMANCE — Performance by the Charged Party with the terms and provisions of this Agreement shall commence immediately after the Agreement is approved by the Regional Director, or if the Charging Party does not enter into this Agreement, performance shall commence immediately upon receipt by the Charged Party of notice that no review has been requested or that the General Counsel has sustained the Regional Director.

NOTIFICATION OF COMPLIANCE — Each party to this Agreement will notify the Regional Director in writing what steps the Charged Party has taken to comply with the Agreement. This notification shall be given within 5 days, and again after 60 days, from the date of the approval of this Agreement. If the Charging Party does not enter into this Agreement, initial notice shall be given within 5 days after notification from the Regional Director that the Charging Party did not request review or that the General Counsel sustained the Regional

Director's approval of this agreement. No further action shall be taken in the above captioned case(s) provided that the Charged Party complies with the terms and conditions of this Settlement Agreement and Notice.

Charged Party Keolis Transit America, Inc.		Charging Party International Brotherhood of Teamsters, Local Union No. 769	
By: Name and Title	Date	By: Name and Title	Date
(b) (6), (b) (7)(C)	Jan 14, 2022		1-19-22
(b) (6), (b) (7)(C) Jan 14, 2022 12:25 CST)			
(b) (6), (b) (7)(C) East Region		<i>C. Thomas</i>	
Print Name and Title below		Print Name and Title below	
(b) (6), (b) (7)(C)			
(b) (6), (b) (7)(C) East Region		<i>Business Representative</i>	
Recommended By:	Date	Approved By:	Date
<i>/s/ Rafael Aybar</i>	1-21-2022	<i>David Cohen</i>	<i>January 24, 2022</i>
Rafael Aybar		David Cohen	
Attorney		Regional Director, Region 12	

(To be printed and posted on official Board notice form)

THE NATIONAL LABOR RELATIONS ACT GIVES YOU THE RIGHT TO:

- Form, join, or assist a union;
- Choose a representative to bargain with us on your behalf;
- Act together with other employees for your benefit and protection;
- Choose not to engage in any of these protected activities.

WE WILL NOT discharge you or otherwise discriminate against you because you seek to join or support International Brotherhood of Teamsters, Local 769, or any other union.

WE WILL NOT interfere with your rights under Section 7 of the National Labor Relations Act.

WE WILL pay (b) (6), (b) (7)(C) for the wages and other benefits lost because we fired (b) (6), (b) (7)(C) from (b) (6), (b) (7)(C) job, plus interest. (b) (6), (b) (7)(C) has waived (b) (6), (b) (7)(C) right to reinstatement to (b) (6), (b) (7)(C) former job or to a substantially equivalent job.

WE WILL remove from our files all references to the discharge of (b) (6), (b) (7)(C) and **WE WILL** notify (b) (6), (b) (7)(C) in writing that this has been done and that the discharge will not be used against (b) (6), (b) (7)(C) in any way.

WE WILL compensate (b) (6), (b) (7)(C) for the adverse tax consequences, if any, of receiving a lump-sum backpay award.

WE WILL file with the Regional Director for Region 12 a report allocating the backpay award to the appropriate calendar year(s) for (b) (6), (b) (7)(C) and a copy of (b) (6), (b) (7)(C) W-2 form(s) reflecting the backpay award.

KEOLIS TRANSIT AMERICA, INC.

(Employer)

Dated: Jan 14, 2022

By: (b) (6), (b) (7)(C)
(b) (6), (b) (7)(C) Jan 14, 2022 12:25 CST

(Representative)

(b) (6), (b) (7)(C) East Region

(Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. We conduct secret-ballot elections to determine whether employees want union representation and we investigate and remedy unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below or you may call the Board's toll-free number 1-844-762-NLRB (1-844-762-6572).

CT 1-19-22

Hearing impaired callers who wish to speak to an Agency representative should contact the Federal Relay Service (link is external) by visiting its website at <https://www.federalrelay.us/ity> (link is external), calling one of its toll free numbers and asking its Communications Assistant to call our toll free number at 1-844-762-NLRB.

National Labor Relations Board, Region 12
201 E Kennedy Blvd Ste 530
Tampa, FL 33602-5824

Telephone: (813)228-2641
Hours of Operation: 8 a.m. to 4:30 p.m.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE
This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the above NLRB office.